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[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

|

[REDACTED]
FOO/170740

PRELIMINARY RECITALS

Pursuant to a petition filed December 14, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on January 14, 2016, at Milwaukee, Wisconsin.

The issues for determination are whether Petitioner is eligible for Transitional FoodShare (TFS) benefits and whether she was eligible for FoodShare in September 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By:

[REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner filed this appeal seeking an order directing that she be given Transitional FoodShare (TFS) eligibility as of September 2015.
3. Petitioner was a W-2 recipient. Her last W-2 check was issued on September 30, 2015 for the month of October 2015.
4. Petitioner's FoodShare case was subject to review in August 2015. She completed the review on August 31, 2015. After processing the review the agency concluded that Petitioner was over the FoodShare income limit based on new employment. The case remained closed for October 2015.

5. The agency determined that Petitioner's income to be \$3096.00. This was based on employment of 40 hours per week at \$18.00 per hour (40 x \$18 x 4.3 weeks per month). Wage records supplied by the agency indicate that Petitioner was actually paid \$2295 for September as the employment began that month but Petitioner did not work a full schedule yet.
6. Petitioner did earn the projected \$3096.00 in October 2015. The FoodShare calculation indicates that, based on income and deductions, Petitioner had a zero FoodShare allotment for October 2015.
7. Petitioner's household size is 3.
8. Petitioner's notices include the JobNet language.

DISCUSSION

In order to receive Transitional FoodShare a person must meet the following standard:

5.1.1.1 TFS Introduction

Transitional FoodShare (TFS) benefits automatically extend FoodShare benefit eligibility for 5 months to food units whose Wisconsin Works (W-2) or Tribal TANF (TT) cash assistance ends as long as:

1. the member was part of an active FS case in the benefit month and the month the last W-2 or TT payment was issued, ...
FSH, §5.1.1.1.

Transitional FoodShare benefits are calculated as follows:

5.1.1.2 TFS Benefit Calculation

The TFS allotment is calculated using the income (less the W2 payment), expenses, and food group size from the month prior to the last W-2 cash payment (benefit determination month). This amount is frozen for the next 5 consecutive months, regardless of the number of months remaining in the most recent certification period for regular FS....

FoodShare Wisconsin Handbook (FSH), §5.1.1.2.

The problem for Petitioner here is that her FoodShare case was not open in the month during which she received her last W-2 check – October 2015.

I also checked to see if Petitioner was categorically eligible for FoodShare as a JobNet case as a household with income of less than 200% of the Federal Poverty Level (\$3350.00 for a FoodShare household of 3, *FSH, §8.1.1.1*):

4.2.1.1 Categorical Eligibility Introduction

Most FoodShare groups are considered categorically eligible if their gross income is at or below 200% FPL and the language describing "JobNet" Services, a partially TANF funded service that all food unit members are authorized to receive, is issued to the group on a CARES generated notice of decision. The following text will appear on FS approval and change notices.

"Job Center of Wisconsin" (formerly known as JobNet) is available to you. Job Center of Wisconsin is the single largest source of job openings in Wisconsin, you can access Job Center of Wisconsin via the internet at <http://www.wisconsinjobcenter.org/> or on touch screen monitors at your local job center. To locate a Job Center of Wisconsin nearest you call 1-888-258-9966."

FSH, §4.2.1.1.

Net income limits do not apply to categorically eligible cases. *FSH, §4.2.1.1.* But if an allotment is zero no benefits need be issued. *Id.*

No FoodShare were issued to Petitioner for September 2015 as the agency concluded that she made \$3096.00 but that was not the case. The agency will have to determine Petitioner's FoodShare eligibility and allotment level for September 2015. As of October it is apparent that the allotment was zero.

CONCLUSIONS OF LAW

1. That Petitioner does not meet the criteria necessary for Transitional FoodShare eligibility.
2. That the evidence is not sufficient to demonstrate that Petitioner was not FoodShare eligible in September 2015.

THEREFORE, it is

ORDERED

That the agency will have to determine Petitioner's FoodShare eligibility for September 2015 and issue benefits accordingly.

In all other respects, this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

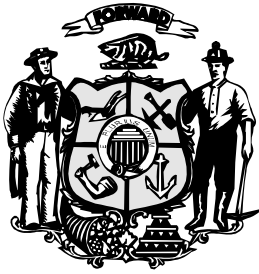
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 11th day of February, 2016

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 11, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability